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A survey on business crime in Switzerland: on the difficulties of field research

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A Survey on Business Crime in Switzerland

On the Difficulties of Field Research

MARTIN KILLIAS/GIANG LY ISENRING

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When ROLF H. WEBER and I (the first author of this essay) first met, we were both students at the Zurich Law Faculty. ROLF's interests, at that time, were more focused on issues of criminal law and, in particular, on juvenile justice and corrections. A group of Law students to whom we both belonged even considered launching a national referendum in favour of adopting, nationwide, reformist standards in these areas. Later ROLF's interests switched to civil and commercial law, and it was in this line that ROLF moved to Harvard. It was in Albany N.Y. that we last met in 1980 or 1981, still with plenty of common interests in the sociological analysis of legal issues. Thirty years later, it is not without irony that we have, together with our common friend of old days PETER FORSTMOSER, launched a common project to study more thoroughly economic crime in Switzerland. It is with great pleasure that the two authors of this essay try to give a short overview of how far our common work has progressed by now and what kind of obstacles we had to overcome so far.

I. Introduction

Businesses sit at the heart of communities, providing jobs and opportunities while contributing to development and economic growth. Crime against businesses reduces benefits from economic activities through illegitimate allocation of resources and products. It includes a variety of offence types, committed either by employees or by offenders from the general public. All forms of

business crime affect the ability of companies to do business and can, therefore, deprive communities of needed amenities. Just as crime in general reduces the quality of life of victims and, indirectly, the community at large, crime in the business sector can become a real draw-back on economic activity and a community's well-being.

Research on economic or white-collar crime suffers from several drawbacks. One is an excessively moralistic discourse, the other one a cruel lack in empirical knowledge.¹ Further, the current mainstream is focused on exclusively punitive responses and remedies.² This is largely true also in Switzerland even though there has been an increase of awareness and interest among the business sector. In 1994, Switzerland participated in the first international Business Crime Survey, carried out in England and Wales, Germany, the Netherlands, Italy, Czech Republic and Hungary under the coordination of the Home Office.³ This survey covered only limited samples of businesses in the retail sector and the hotel/restaurant/bar sector of approximately 500 units per country. It used a similar methodology as the one applied for the International Crime Victimization Surveys that started in 1989.⁴ Among its main findings was the discovery that businesses are far more often victims of property offences (including burglary and vandalism) than private households, and that the exclusive focus on crime directed at households or individuals is hard to justify. For example, the domestic burglary rate of private households was in the range of one to three percent in the participating countries, whereas between 13 and 47 percent of retail shops suffered from burglary at least once per year.⁵ Unfortunately, this type of surveys has neither been continued at the European level nor in the several countries. The only exception was England and Wales where a similar survey has been conducted in 2002.⁶

Unfortunately, private companies such as KPMG and PRICE-WATERHOUSE-COOPERS have rapidly filled the gap and conducted several surveys among businesses, showing dramatically high prevalence rates of

¹ For example, the work by EVA WYSS, *Kriminalität als Bestandteil der Wirtschaft. Eine Studie zum Fall Werner K. Rey*, Pfaffenweiler 1999. This study is based on one (!) case, but concludes with far-reaching statements.

² MARTIN KILLIAS, Von 'White-Collar Crime' zur Organisierten Kriminalität: Zeitgenössische Inkarnationen des Bösen, in: Jürg-Beat Ackermann/Andreas Donatsch/Jörg Rehberg (Hrsg.), *Festschrift für Niklaus Schmid*, Zürich 2001, 71 ff.

³ JAN VAN DIJK/GERT TERLOUW, An international perspective of the business community as victims of fraud and crime, *Security Journal* 7, 1996, 157 ff.

⁴ JAN VAN DIJK/PAT MAYHEW/MARTIN KILLIAS, *Experiences of Crime Across the World*, Deventer (NL)/Boston 1990.

⁵ MARTIN KILLIAS, La criminalisation de la vie quotidienne et la politisation du droit pénal, *Bâle* 1995 (*Zeitschrift f. schweiz. Recht* 129 II [1995], 365).

⁶ JAN SHURY ET AL., *Crime against retail and manufacturing premises: findings from the 2002 Commercial Victimization Survey*, London: Home Office Online Report 37/05.

economic crime at every sweep.⁷ The findings of these surveys, although highly publicized in the media,⁸ are strongly misleading due to serious flaws in the survey methodology that will be explained below: the rates and risks of economic crime are, thus, grossly inflated. The present research is also an attempt to produce data that go beyond the “propaganda numbers” of firms who use “research” as a tool to promote their own products (namely controlling). Wrong (i.e. possibly inflated) numbers are in some way no less deplorable than the total absence of empirical findings.

At the beginning of 2009, the European Union has awarded TRANSCRIME (Joint Research Centre on Transnational Crime, Università degli Studi di Trento) with a study on “The Development of an EU Survey to assess the level and impact of crimes against business”, including all countries members of the EU. As a pilot-study for such an encompassing survey, TRANSCRIME realized a business crime survey in Italy.⁹ This survey was designed as a pilot-study that should later lead to a regular European Business Crime Survey. Our project aims at testing, through controlled experiments and in coordination with TRANSCRIME, several methodological features of this survey, with the view to help developing (and, eventually, improving) the methodology of the future EU survey. Whereas the TRANSCRIME study in Italy may also suffer from a certain number of flaws, the Swiss survey has been designed in a way to learn more not only on crime within the business sector, but also on ways to improve the methodology. It is focused on offences committed by employees against their employers, or against any regulations that rule their employers’ operations. Obviously, not all business crime is committed by employees, but in the course of the preparation of our study, it became fairly soon clear that not all forms of economic crime could be analysed at the time. Since most criminal operations within the business sector involve at least one actor among a company’s staff, it was felt that looking at employee’s behaviour may be a promising starting point. Our study greatly benefited from the second author’s doctoral dissertation that included a survey among the retail and the financial (banking) sectors in Geneva and where the focus had also been on employees’ misbehaviour.¹⁰ Although the present project is more on methodology and identifying feasible

⁷ PRICEWATERHOUSECOOPERS, European Economic Crime Survey 2001, and Global Economic Crime Survey 2007 (www.pwc.ch). According to this study, the victimization rate among the largest firms was said to be nearly 40%.

⁸ Several newspapers have published these studies on their frontpage, such as Tages-Anzeiger. Others, such as the Neue Zürcher Zeitung have welcomed them with uncritical enthusiasm in their business pages.

⁹ Data on the Business Crime Survey in Italy are not yet published. However, measurement methodologies and comparability issues can be found in the PhD dissertation of GUILIA MUGELLINI, *Measuring crime against business in the EU: the problem of comparability*, Università cattolica di Milano, 2009.

¹⁰ GIANG LY ISENRING, *Les délits commis par les employés dans les secteurs commercial et financier. Etude du droit suisse*, Bern 2007.

ways to study offences within companies through future EU-wide surveys, all research obviously has a policy agenda and should in some way promote prevention. Our project is, therefore, also aimed at discovering findings that will be relevant for prevention and policy-making.

II. Methodology

In order to study the victimization of crime against businesses, we have planned to conduct a national survey using a web-based questionnaire to be sent to the security managers, CEO or owners of retail shops, banks and providers of financial services.¹¹ We have opted for a sample of around 8'000 randomly selected premises from lists of firms operating in these three sectors. The sample was supposed to cover the French, German and Italian-speaking cantons. As the project concerns offences committed by employees in the commercial and financial sectors, i.e. sectors of considerable diversity, the sampling methodology had to be developed in quite innovative ways. Indeed, so far there has been no model where we could draw. The same was true regarding the questionnaires, since the problems that can be observed in commercial units (shops and retail stores) differ considerably from those that exist in firms offering rather abstract financial services (banks, asset management firms, trust fiduciary firms). Therefore, special questionnaires had to be designed for each sector included in our samples.

1. Sample design

Contrary to population or household surveys where population registers, phone directories or random digit numbers can be used, there is no “easy” list where from retail firms, banks or providers of financial services could be sampled. In the present case, we have obtained support from the Federal Office of Statistics who, acting as a national bureau of census, has developed a sample of firms of several sectors. Regarding banks and providers of financial services, it turned out that professional (branch) associations are best suited in offering support not only in locating respondents, but also in motivating them to participate.

Regarding the commercial sector (including retail shops), the sampling procedure was as follows:

- We contacted the Federal Office of Statistics who agreed to provide us with a random sample of 3'433 postal addresses of the Swiss retail shops. For this, we had to give them our selection criteria for the sample (here, all

¹¹ The development of a survey among premises to assess the level and impact of crimes against business in Switzerland. Swiss National Science Foundation Study.

retail sectors in Switzerland except hotels, restaurants). As our study is about testing the “on-line” survey, we had to search for the email addresses of the 3'433 retail stores by using Google or the Swiss directories and Yellow pages. We obtained 1'781 e-mail addresses out of the total.

- We also contacted the Swiss Chamber of Commerce and bought 2'000 postal addresses. Out of these, 1'169 e-mail addresses were obtained through our own searches.
- We obtained also 900 e-mail addresses through the Geneva and Ticino Chamber of Commerce.

This procedure provided a total 3'850 e-mail addresses to which our questionnaire could be sent.

For the financial sector, the sample is composed of the following sub-samples:

- A sample of independent banks that are members of the Swiss Association of Bankers. We opted for using all 360 banks that are on this organization's membership directory.
- Further, our sample includes 227 foreign banks who are not members of the Swiss Association of Bankers but figure on the list of FINMA. Among these 227 banks, 70 are members of the Foreign Banks Association, who has agreed to provide us with letter of support and postal addresses for our mail survey.
- Concerning the large banks (UBS, Crédit Suisse, Raiffeisen) with many branches, we have opted for sending them one questionnaire to their headquarters each, plus a branch questionnaire to a selection of 100 branches to be randomly selected by our team. Regarding the Cantonal Banks and Regional Banks (RBA Holding, Clientis, Valiant), we have randomly selected 97 and 47 branches across the country.
- Finally, we have randomly selected 76 branches of smaller banks, such as Coop, Migros, Leumi, Geneva Money Bank, Julius Baer, Bâloise Bank.
- Postfinance has received the headquarter questionnaire, no branches (post offices) were contacted.
- Beyond the banking sector, 2'481 trust fiduciary companies who are members of the Swiss Union of Fiduciaries have been approached, as well as 1'110 asset management companies listed on the membership directory of the Association of Swiss Asset Managers.

The total sample of the banking sector and other financial providers includes 4'702 firms or branches. Together with the commercial (retailers') sample of 3'850 units, the total sample amounts to 8'552.

2. Key role support

In order to obtain optimal support in contacting potential respondents and in motivating them to participate, we have contacted in a first step several asso-

ciations which supposedly could give us some support. For the banking sector, after several meetings and contacts with the *Association of Swiss bankers*, we have obtained the support from the Security Commission. We also received support from *The Foreign Bank Association* and the *RBA Holding Association*. The same procedure has been undertaken with the *Swiss Union of Fiduciaries* and the *Association of Swiss Asset Managers* and they have all agreed in supporting our project. However, the way and the conditions of their support have varied slightly across sectors. The Association of Swiss bankers and the Swiss Union of Fiduciaries have accepted to send out a newsletter to all members encouraging them to respond to our questionnaire. The Association of Swiss Asset Managers, on the other hand, has only agreed to deliver us with the e-mail addresses of all of their members. For this matter, we were requested to sign a data privacy agreement according to which we promised to use these e-mail addresses only twice (a first time to send out the questionnaire and a second time for one only reminder), and to delete the addresses right after use.

This step of research took quite longer than planned as decisions of supporting the study have been processed through different levels. More time was also needed because our questionnaire needed to be approved by the Presidents of every of these Associations (who, besides chairing their Associations, have a full-time job in a financial firm).

Contacts were made with the Chiefs of Securities of Coop, Manor, Fly (chain of furniture supply belonging to the Manor group) in order to encourage them to participate in our research. Manor and Fly were interested in completing the questionnaire but Coop refused to give out information on their victimization.

It is interesting to note that the banking sector turned out to be particularly cooperative. This was achieved without facing substantial requests concerning the contents of the questionnaire. It seems that this sector has realized that studies like this are in their best interest, not only because it may show that crime is less frequent among bankers than often presumed in the public, but also because prevention is a higher priority given the high potential of nuisance of criminal employees.

a) Questionnaire design

In a first step, different questionnaires and sampling procedure for the commercial and the financial sectors have been set. As there is considerable internal heterogeneity inside the banking sector, it became clear that offences by employees must as well show great diversity across this sector. Indeed, there are not only a few large “retailer” banks with many local branches (Filialen), such as UBS, CS, Raiffeisen, the cantonal banks and the RBA Holding banks; we also have to count with several large foreign banks with only representa-

tive offices in Switzerland. Therefore, we have drawn sub-samples out of these several sectors, as explained above, and constructed two different questionnaires for the banking sector: (1) the *headquarter questionnaire* and (2) the *branch questionnaire*.

Both questionnaires include questions related to the bank's general background, such as the number of employees, the location, the revenues of the bank and information on the strategies of prevention implemented. The core of both questionnaires is to obtain data on the victimization rate of offences and violations committed by employees inside the bank as well as information on the authors of such acts, their background, modus operandi, their hierarchical position, etc. As the Headquarter questionnaire is designed for headquarters of all the bank members of the Swiss Association of Bankers, questions about offences and circumstances included are only relevant at this level – given that the main objective here is to get insights on the „big picture“. The Branch questionnaire designed for branches gives more focus on details linked to the victimization at the level of the branch (in particular the most serious offence that happened over the three last years).

For instance, in the Headquarter questionnaire, questions about the author are more general, whereas this same section in the Branch questionnaire includes numerous detailed questions about the personal history of the wrongdoer and the circumstances in which the most serious offence was committed. The Headquarter questionnaire also allows acquiring overall information on the corporate culture and the prevention philosophy of the headquarter bank. Meanwhile, the Branch questionnaire considers detailed information on the efficiency of measures of prevention implemented before and/or after an incident.

Trust fiduciary companies and asset management firms share the same questionnaire, which is quite similar to the one of the commercial sector but with more questions specific to each sector.

b) Technical platform

The questionnaire on-line was implemented using two different softwares: Lime Survey and NetQ Survey. The Lime Survey software was used for the bank sector and the NetQ for the other financial sector and the commercial sector. Each questionnaire was translated into 4 languages (French, German, Italian and English). The use of two separate softwares turned out to be necessary since Lime Survey was not powerful enough to generate the whole questionnaire in 4 languages and for both sectors (financial and commercial) with several sub-sectors. If the download of Lime Survey was free of charge, NetQ, however, had to be bought and installed with the help of the IT Team of the University. The software once acquired can be used by the whole team over one year.

Though Lime Survey and Net Q are designed to be user friendly, learning how to use them and, most of all, how to implement the whole survey online was very time-consuming. One person of our research team was, therefore, completely assigned for this specific technical task. Furthermore, it took a large amount of time to test the questionnaire and to make sure that data collection could happen without any technical incident. After testing the questionnaire on our own server, we have started to send it out to a group of compliance officers of several banks.

c) **Reminder methodology**

For those who do not respond within a reasonable time, reminders will be necessary. We plan to experimentally compare different methods of reminders (mail questionnaires, call-backs to stimulate motivation). This means that we shall randomly select whether a person (non-respondent) will be contacted by phone or by a mail reminder. For the time being, little is known about the comparative efficiency of any of these methods. The first reminders are scheduled for the month of January.

3. Data collection

Data collection started only in October 2010. Therefore, only very preliminary results can be provided regarding the comparative success of the different ways potential respondents have been approached. So far, no reminders have been started, and it is to be seen how this project will succeed in motivating actors in the several sectors to participate.

For the time being, it seems that cooperation was best among the banks, especially among the headquarters. This may be due to the general greater awareness among actors of this sector for problems of reputation and prevention. But it could also be related to the fact that we had only 360 headquarters to contact, whereas the number of branches is larger and more difficult to control. This is even more so for fiduciaries and asset managers where the sample is large and relatively dispersed. It is to be expected that the response rate among these sectors, as well as among retailers, will remain far below what we can hope to obtain among banks. On the other hand, Isenring¹² had obtained response rates of 53% among the retailers and providers of financial services in Geneva. We can hope, therefore, that, after the procedure of reminders, our response rate may not fall far short from that model.

¹² Op.cit. (note 10).

III. Conclusions

Empirical research on crime against business interests is badly needed if the current discourse of moral outrage is to be replaced by more sound knowledge of the extent and causes of problems and the potential of prevention. However, as this short essay tried to outline, research in this sector has to overcome several difficulties. First of all, finding an appropriate sampling approach is no easy task and almost necessarily involves finding close cooperation with professional associations. Second, the heterogeneity of sectors requires a multitude of different versions of questionnaires – in the present case we have designed no less than ten versions and prepared each in four different languages. This implies also complex problems of programming and software management. Finally, gaining the confidence of potential respondents and motivating them to participate is again far more difficult with firms than with individuals who may more easily understand the importance of crime for their interest. All these difficulties should never be a reason, however, to stop striving for improving our understanding of economic crime – and to turn to exclusively “theoretical” research instead.